

DAVID T. WEI (230729)  
AXCEL LAW PARTNERS  
4 Embarcadero Center, 14th Floor  
San Francisco, CA 94111  
Telephone 415-704-8800  
Facsimile 415-704-8804  
Email litigation@ax-law.com

ATTORNEYS for DEFENDANT SPECTRUM FIVE LLC

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
\_\_\_\_\_ DIVISION

NematicITO, Inc., a Delaware corporation;  
Dedi Haziza, an individual,  
Plaintiffs,  
v.

SPECTRUM FIVE LLC, a Delaware  
Limited Liability Company; and DOES 1-  
10, inclusive,  
Defendant

SPECTRUM FIVE LLC, a Delaware  
Limited Liability Company  
Counter-plaintiff,  
v.

NematicITO, Inc., a Delaware corporation;  
Dedi Haziza, an individual, and DOES 1-10,  
inclusive,  
Counter-defendants.

Case No.: \_\_\_\_\_

**DEFENDANT SPECTRUM FIVE LLC'S  
NOTICE OF REMOVAL**

**THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF CALIFORNIA:**

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1331, 1332, 1367, 1338, 1454, 1446, 2201, and 2202 *et seq.* as well as 35 U.S.C. §271 *et seq.*, Defendant Spectrum Five LLC (“Spectrum Five”), by and through counsel, hereby removes the civil action NematicITO, Inc. *et al.* v. Spectrum Five LLC, Case No. 14-CV-270709, Superior Court of the State of California, County of Santa Clara, to this Honorable Court.

The grounds for removal, also provided in Spectrum Five's First Amended Answer and Cross-Complaint<sup>1</sup> (Ex. A), include the following:

1. On or about September 17, 2014, Plaintiffs NematicITO, Inc. and Dedi David Haziza filed a Complaint in the Superior Court of the State of California, County of Santa Clara, Case No. 14-CV-270709 (hereinafter the “State Court Action”) (Complaint, attached hereto as Exhibit B).

2. Defendant Spectrum Five is a Delaware limited liability company, with its principal place of business in Washington, District of Columbia.

3. Plaintiff NematicITO is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Santa Clara, California.

4. Plaintiff Dedi David Haziza is an individual residing in Santa Clara County, California, and is the purported inventor, assignee, and owner of the patents-in-suit.

5. In the State Court Action, Plaintiffs asserted three causes of action for breach of contract, intentional misrepresentation, and negligent misrepresentation. Each of the causes of action relates to a November 27, 2013 Technology Licensing and Development Agreement involving an exclusive license to U.S. Patents Nos. 7,656,359 and 7,884,779 (“Patent License”). (Ex. B). Complete copies of the '359 and '779 patent are attached. (Exs. C and D, respectively).

6. The Amount in controversy exceeds \$75,000. (Ex. B).

---

<sup>1</sup> In the State Court Action, because of the California Rules of Civil Procedure, counterclaims were referred to as cross-claims, as required. Any reference to “cross-claim(s)” refer to counterclaim(s).

1           7.       On or about November 18, 2014, Plaintiffs served Spectrum Five. (E at 1).

2           8.       On or about December 17, 2014, Defendant filed its Answer. (*Id.* at 2).

3           9.       In the California State Court Action, by law, Defendants was required to seek leave  
4 by filing a Motion for Leave to Amend ("Motion to Amend").

5           10.      On April 7, 2016, the Superior Court granted Spectrum Five's Motion for Amend  
6 (Ex. E at 6; Ex. F at 2).<sup>2</sup>

7           11.      Accordingly, on April 7, 2016, Spectrum Five's First Amended Answer and Cross-  
8 Complaint became a pleading in the State Court Action.

9           12.      As amended, such pleading asserts:

10               a.   Affirmative Defenses related to U.S. Patent Nos. 7,656,359 and 7,884,779

11                   i.   Non-Infringement;

12                   ii.   Prosecution History Estoppel;

13                   iii.   Invalidity;

14                   iv.   Laches, Estoppel, and Acquiescence;

15                   v.   No Right to Injunctive Relief;

16                   vi.   Unenforceability;

17               b.   Counterclaims for Declaratory Judgment related to U.S. Patent Nos.  
18                   7,656,359 and 7,884,779

19                   i.   Non-Infringement of the '359 patent;

20                   ii.   Invalidity of the '359 patent;

21                   iii.   Non-Infringement of the '779 patent;

22                   iv.   Invalidity of the '779 patent;

23                   v.   Determination of Patent License Obligations;

---

24  
25       <sup>2</sup> On April 6, 2016, the Court in the State Court Action issued a tentative ruling granting the Motion for Leave to  
26 Amend. (Ex. F, Line 15). Under the applicable Civil Local Rule 3.1308(a)(1) and California Rule of Court 3.1312, a  
tentative ruling becomes the Order of the Court unless contested. No party contested the ruling.

vi. Failure of Consideration; and

vii. Lack of Patent Ownership.

(Ex. A).

13. On April 8, 2016, Spectrum Five removed this matter to this Court.

14. This Court has exclusive, original, and supplemental jurisdiction over the above-entitled action. Each of the parties' causes of action, affirmative defenses, and counterclaims relates to the Patent License involving the '359 and '779 patents.

15. The Superior Court of the State of California, County of Santa Clara is located within this Court's geographical jurisdiction.

16. Copies of relevant process, pleadings, and orders served upon Spectrum Five are attached herewith.

WHEREFORE, Defendant Spectrum Five notifies this Court, Plaintiffs, and the Superior Court of the State of California, County of Alameda, that this action has been removed to the United States District Court for the Northern District of California.

April 8, 2016

Respectfully,

AXCEL LAW PARTNERS

/s/ David T. Wei

David T. Wei

ATTORNEYS for DEFENDANT SPECTRUM  
FIVE LLC